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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/932,694	08/16/2001	Ralph Samuelson	APXX0006	6878
22862	7590	11/03/2006		
GLENN PATENT GROUP 3475 EDISON WAY, SUITE L MENLO PARK, CA 94025			EXAMINER POINVIL, FRANTZY	
			ART UNIT 3692	PAPER NUMBER
DATE MAILED: 11/03/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/932,694	Applicant(s) SAMUELSON ET AL.	
	Examiner Frantzy Poinvil	Art Unit 3628	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 05 August 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |                                                                                                            |                                                                                         |
|------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## DETAILED ACTION

On page 1 of the instant application, the Examiner is requesting the applicant to supply the related US Patent Applications numbers pertaining to the instant application.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fernholz (US Patent No. 5,819,238).

As per claim 1, Fernholz teaches an automated method for trading securities using a data processing system comprising receiving a trade order from a user via a broker-dealer indicating a number of shares to be traded in real-time (see figures 1 and 1). Fernholz does not explicitly teach a means for receiving a trade order outside of exchange trading hours, determining a limit for a number of shares to be traded, and rejecting/flagging a trade order based on the determined limit; Fernholz discloses a data processor for trading securities having a rebalancing operation, re-weight and a dynamic portfolio management system to issue appropriate market trader orders/share quantity (column 11, lines 43-67 to column 12, lines 1-63), (column 13, lines 49-67, column 14, lines 1-3 and column 20, lines 1-14). Further, Fernholz also includes a

means for accepting or rejecting a particular trading order based on the predetermined standards (column 9, lines 49-55). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to note that Fernholz's data processor system has all the capabilities to determine a limit for number of shares/trading orders to be traded based on the preset standards, and the system is also able to accept or reject a particular trading order. Furthermore, Fernholz does not explicitly mention a means for receiving a trade order outside of exchange trading hours; However, Fernholz discloses that trades are automatically verified, typically after the markets are closed for a session (column 11, lines 44-46). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Fernholz in order to accept trading order outside of trading hours.

As per claim 2, Fernholz teaches an order can be accepted if it satisfies the predetermined conditions that is set by the system (column 9, lines 49-61) which encompass accepting trade order if it is less than the determined limit.

As per claims 3 and 8, the claimed invention is discussed in the above paragraphs.

Claims 4-6 and 9-10 contain features recited in claim 1 above and therefore are rejected under a similar rationale.

Claim 7 contains features addressed in claim 2, and therefore is rejected under a similar rationale.

As per claims 11 and 12, the claimed features are discussed above. In addition, Fernholz teaches a matching means to match trade orders (column 8, lines 55-61) and

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(column 10, lines 5-6). Fernholz also teaches a data processor for trading securities having a rebalancing operation, re-weight and a dynamic portfolio management system to issue appropriate market trade orders/share quantity (column 11, lines 43-67-column 12, lines 1-63) (column 13, lines 49-67-column 14, lines 1-3) (column 20, lines 1-14). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to recognize that the data processor of Fernholz is able to determine a limit for a number of shares/trading order to be traded as set forth on the preset standards.

Claim 13 contains features recited in the above claims and therefore is rejected under a similar rationale.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantzy Poinvil whose telephone number is (571) 272-6797. The examiner can normally be reached on Monday-Thursday from 7:00AM to 5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**Frantzy Poinvil**  
**Primary Examiner**  
**Art Unit 3628**

FP  
October 27, 2006